

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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TIMMY WALLACE,

Plaintiff,

-against-

CITY OF NEW YORK et al.,

Defendants.  
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**JENNIFER E. WILLIS, United States Magistrate Judge:**

The original Complaint was filed on April 25, 2022. Dkt. No. 2. The Plaintiff then submitted an Amended Complaint in June 2022. Dkt. No. 6. Nevertheless, Chief Judge Swain then ordered the Plaintiff to amend the Complaint a second time. Dkt. No. 11. On July 15, 2022, the Plaintiff filed a Second Amended Complaint. Dkt. No. 12.

A few months later, on September 16, 2022, Plaintiff filed a Motion for Discovery. Dkt. No. 18.

On November 22, 2022, the U.S. Marshals Service attempted to serve the Defendants, but was unsuccessful. The next day, on November 23, 2022, a Notice of Appearance was entered on behalf of the City. Dkt. No. 28. Later that week, the City of New York was successfully served, and then in December, the City acknowledged receipt and executed a return of service form. Dkt. No. 34. On December 19, 2022, the City answered the Complaint. Dkt. No. 36. In March 2023, the rest of the Defendants filed an Answer. Dkt. No. 42.

**ORDER**

**22-cv-3414 (JPC) (JW)**

Later that month, the Court granted leave to the Defendants to submit a Motion on the Pleadings and the Court set a briefing schedule for the Parties. Dkt. No. 44.

On April 10, 2023, the Defendants filed their Motion on the Pleadings. Dkt. No. 46.

Plaintiff's Opposition would have been due May 15, 2023. Dkt. No. 49.

However, on May 15, 2023, the attorney for the Plaintiff submitted a letter indicating he intends to imminently withdraw from the case and requesting an extension so that Plaintiff may prepare his Opposition by himself (in other words, the Plaintiff is now acting *pro se*).

Plaintiff has been granted an extension to file his Opposition until July 17, 2023. Dkt. No. 51. Defendant has until July 24, 2023, to reply.

Turning to Plaintiff's Motion for Discovery, the Court notes that generally, after a defendant has been served with a complaint, the parties are required to meet and confer to jointly develop a discovery plan and a schedule for exchanging information and producing documents. See Fed. R. Civ. P. 37(a)(1). However, at the time Plaintiff filed his Motion, the Defendants had not yet been served with the Complaint.

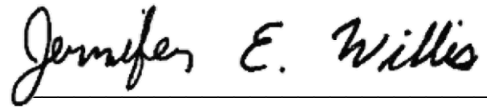
Because the Parties have not yet had a chance to confer on a discovery plan, as well as the fact that the Motion on the Pleadings is still pending, the Court DENIES Plaintiff's Motion for Discovery without prejudice.

If Plaintiff's Second Amended Complaint survives the Motion on the Pleadings, the Parties will be directed to agree on a plan for discovery. If the Parties cannot agree on a discovery plan at that time, Mr. Wallace shall be permitted to re-file his Motion for Discovery at that later date.

**The Clerk of the Court is respectfully requested to close Dkt. No. 18.**

SO ORDERED.

DATED: New York, New York  
May 16, 2023

A handwritten signature in black ink that reads "Jennifer E. Willis". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

JENNIFER E. WILLIS  
United States Magistrate Judge